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**FISCAL IMPACT STATEMENT**

**LS 7236**

**BILL NUMBER:** SB 365

**NOTE PREPARED:** Apr 30, 2009

**BILL AMENDED:** Apr 29, 2009

**SUBJECT:** Various Department of Child Services Matters.

**FIRST AUTHOR:** Sen. Lawson C

**FIRST SPONSOR:** Rep. Avery

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
X FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** *Provisions Affecting the Department of Child Services (DCS) and other DCS Subsidiaries:*

The bill: (1) repeals provisions concerning local coordinating committees;  
(2) removes information that could be included in a petition for adoption;  
(3) requires a petition for adoption that is in proper form to be forwarded to DCS;  
(4) specifies certain supervision that is a prerequisite to adoption;  
(5) provides that DCS may publish or post on its website a list of supervising adoption agencies;  
(6) removes the requirement that DCS provide each clerk of the courts having probate jurisdiction with the list of supervising adoption agencies;  
(7) provides that licensed child placing agencies or county Offices of Family and Children will ensure that certain criminal history checks are conducted (current law requires DCS to conduct the criminal history checks);  
(8) removes classifications of when a child is hard to place and requires DCS to define "hard to place";  
(9) requires a court to refer a petitioner for adoption who requests financial assistance to DCS;  
(10) changes the frequency DCS is required to report information regarding caseloads of child protection caseworkers;  
(11) provides that a child's case plan for a child in need of services (CHINS) includes ensuring educational stability of the child while in foster care;  
(12) provides that under certain circumstances the refusal of a parent, guardian, or custodian to submit to a drug or alcohol test after the death of a child may be used to determine that the parent was intoxicated or under the influence of drugs or alcohol at the time of the child's death;  
(13) gives DCS additional emergency rule-making authority;

- (14) requires DCS to initiate an assessment upon receiving a report of a child who lives with a parent who is married to or lives with a person who has either been convicted of a battery offense or neglect of a dependent or is required to register as a sex or violent offender;
- (15) provides DCS is responsible for the cost of treatment or maintenance of a child under DCS's supervision only if the costs are reimbursable under the state Medicaid program;
- (16) changes references from FSSA to DCS;
- (17) changes references from caseworkers to family case managers;
- (18) changes references from child abuse "investigations" to "assessments";
- (19) provides that if DCS believes that a child is in imminent danger of serious bodily harm, DCS shall initiate an immediate assessment;
- (20) removes the requirement that the Bureau of Child Support demonstrate that all previous enforcement actions have been unsuccessful before sending an obligor a notice that the obligor is delinquent;
- (21) provides that a petition alleging that a child taken into custody is a CHINS shall be filed before the detention hearing and initial CHINS hearings are held at the same time as the detention hearing;
- (22) requires a coroner to: (1) immediately notify the county office of DCS of; and (2) consult with a child death pathologist to determine whether an autopsy is needed regarding; the death of a person less than 18 years of age who died in an apparently suspicious, unexpected, or unexplained manner;
- (23) requires DCS, in cooperation with the state Department of Education (DOE), to develop and coordinate the education advocates for children in foster care plan;
- (24) authorizes a probation department, the county Office of Family and Children, and DCS to exchange information to prepare certain reports concerning a child;
- (25) provides that if a child is removed from the child's parents, DCS shall identify and provide notice of the removal to certain adult relatives, including the child's siblings who are at least 18 years of age;
- (26) specifies the data and information that must be disclosed in records of cases of a child fatality or near fatality that may have been a result of abuse, abandonment, or neglect;
- (27) removes the option for DCS to classify an assessment of suspected child abuse or neglect as "indicated"; and
- (28) removes the requirement under which a report based on the investigation concerning an adoption petition must state whether the child is classified as hard to place.

*Provisions Affecting the Probation Department of the Indiana Judicial Center:*

- The bill: (1) removes a requirement that the probation department complete a child's case plan not more than 60 days after the date of the dispositional decree;
- (2) requires the probation department to create a case plan if a decree is modified;
  - (3) removes a requirement for a probation officer to include certain information in a predispositional report for DCS to determine if a child is eligible for certain government assistance; and
  - (4) adds references to probation departments' duties concerning legal settlement of a student.

*Provisions Affecting the Court Operations:*

- The bill: (1) prohibits a court from appointing a person to serve as a guardian or to continue to serve as a guardian if the person committed certain sex offenses,
- (2) prohibits a court or juvenile court from permitting a person to serve as a guardian or custodian if the person was convicted as an adult of certain sex offenses that the person committed when the person was less than 18 years of age, and
  - (3) provides that a court may: (a) order a party who is alleged to be in contempt of court regarding violation of a child support order to show cause as to why the party should not be held in contempt; and (b) if the party

fails to respond to the order to show cause, issue a bench warrant and require the party to deposit an escrow amount before the hearing to show cause;

(4) requires a court to incorporate certain DCS records into an order; and

(5) requires the initial hearing on the CHINS petition to be held at the same time as the detention hearing.

**Penalty Provisions:** The bill (1) enhances battery to a Class D felony if the victim suffers bodily injury and is a DCS employee and (2) adds employees of DCS to the list of persons covered by the statute making battery by bodily waste a Class D felony.

This bill also creates the Commission on Childhood Poverty in Indiana and sets forth duties of the Commission.

**Effective Date:** Upon passage; July 1, 2009.

**Explanation of State Expenditures:** This bill has the following provisions of the bill may *increase or shift state expenditures*:

(1) The bill requires DCS to only pay for the costs of treatment or maintenance of a child under DCS's custody who is placed in a state institution if the costs are reimbursable under Medicaid. This will most likely shift costs to the Division of Mental Health and Addiction (DMHA) and the Division of Disability and Rehabilitative Services (DDRS). However, increases to DMHA and DCS costs are unknown.

(2) The bill adds offenses that disqualify an individual from serving as a guardian or custodian and may decrease the number of potential guardians or custodians that can be appointed to a child and increase the number of children placed in foster care. Increases in foster care utilization will increase DCS expenditures.

(3) The bill can increase the number of individuals that would be required to register as sex offenders in the state and may increase the number of CHINS. An increase in the number of CHINS will also increase the expenditures of DCS and the Division of State Court Administration (see *Background Information* for additional details).

(4) This bill allows "assumed impairment" to be used during a judgment of child neglect and may result in increases in judgments of child neglect and orders for out-of-home placement. Increases in out-of-home placement will result in additional state expenditures.

(5) The bill enhances battery against a DCS employee who acts in the capacity of their job that results in bodily injury to a Class D felony and adds DCS employees to the list of persons covered by the statute classifying battery by bodily waste, which is also a Class D felony. This will increase state expenditures to jail offenders to the extent these offenses are committed.

(6) This bill establishes the 23-member Commission on Childhood Poverty in Indiana. The Commission is required to submit an interim plan to reduce childhood poverty in the state by December 31, 2010, and a final report by December 31, 2011. This bill will increase state expenditures to provide reimbursement for travel and per diem to members of the General Assembly who serve on the Commission. The Commission is to be staffed by the Indiana University School of Social Work.

The following provisions of the bill may *decrease state expenditures*:

(1) The bill allows DCS to publish lists of licensed child placing agencies that perform home studies on the Department's website.

(2) The bill would require DCS to ensure a criminal history background check is obtained for adoptive parents working with licensed child placing agencies rather than conduct the background check themselves.

(3) The bill requires DCS to pay for costs of treatment or maintenance of a child under DCS's custody who is placed in a state institution only if the costs are reimbursable under Medicaid. Expenditures will decrease to the extent that DCS financed the care of children that was outside the reimbursement eligibility under the Medicaid program.

(4) The bill removes provisions of current law that allow a child to be classified as a CHINS from self-inflicted harm and can potentially decrease the number of CHINS in the state. Decreases in CHINS numbers in a county can decrease Division of State Court Administration expenditures for the Guardian ad Litem (GAL), and Court Appointed Special Advocates (CASA) program (see *Background Information* for additional details).

The following provisions of the bill may increase workload on each respective agency:

(1) The bill specifies additional family members that DCS would be required to exercise due diligence to notify if a child is taken into state custody. [Note: DCS currently attempts to notify a child's relatives.]

(2) The bill also requires DCS to perform an immediate assessment when the Department feels that a child is in imminent danger.

(3) It increases the number of individuals that would be required to register as sex offenders in the state; the number of CHINS, and consequently the workload of DCS and the GAL/CASA program may increase as a result.

(4) The bill may require DCS to perform additional assessments to the extent the Department receives additional reports of a child living with an individual who has either been convicted of a battery offense or neglect of a dependent or is required to register as a sex or violent offender. [Note: DCS reports that they currently receive and investigate complaints about children residing with individuals who are convicted of the offenses mentioned and are registered sex or violent offenders. DCS estimates the receipt of 140,000 complaints annually regarding these situations.]

(4) The bill requires DCS, in cooperation with DOE, to develop and coordinate the education advocates for children in a foster care plan.

(5) This bill also requires DCS to submit a report to the Governor and Legislative Council detailing the education advocate plan.

(6) The Indiana University School of Social Work is required to staff the Commission on Childhood Poverty in Indiana. Increases in workload will depend on the frequency with which the Commission meets.

The following provisions of the bill may decrease workload on each respective agency:

(1) The bill will no longer require DCS to perform home studies for adoptions requested through licensed child placing agencies or other private adoption agencies, but only for wards of the state.

(2) The bill removes an option to classify an assessment of suspected child abuse/neglect as "indicated". Minimal decreases are expected.

(3) This bill removes requirements that DCS expunge records of individuals named in indicated cases of child abuse. Minimal decreases are expected.

(4) It also removes a requirement that a probation officer coordinate with DCS to make a program or service recommendation in a predispositional report during a juvenile delinquency case. [Note: It is not known the extent to which probation officers currently request DCS staff to make program or service recommendations in juvenile delinquency cases as DCS bears no costs for secure juvenile detention.]

(5) This bill removes provisions requiring the Child Support Bureau to demonstrate all attempts to collect child support from a delinquent obligor. Minimal decreases are expected.

(6) The bill combines CHINS hearings and detention hearings. Court caseload is expected to decrease, as well as GAL/CASA workload. (The Division of State Court Administration does not collect information on how many children receive separate detention hearings and CHINS determination hearings.)

(7) This bill also removes provisions of current law that allow a child to be classified as a CHINS from self-inflicted harm. This may decrease the number of CHINS as well as court caseload and the workload of the GAL/CASA program.

The following provisions of the bill will have no fiscal impact:

(1) The bill specifies data and information that must be disclosed in the records of cases of a child fatality or near fatality that may have been the result of abuse, neglect, or abandonment.

(2) It requires the probation department, along with DCS, to notify a school corporation of where a student has legal settlement if a student's placement is changed. DCS reports this codifies current practice.

(3) It also requires the court to keep all documents submitted to probation officers or the court for record in the event DCS appeals a decision made by the court. DCS reports this codifies current practice.

*Background and Additional Information:*

DCS currently pays for services provided to CHINS and services that formerly would have been provided by the county child welfare fund. DCS reports that the total CHINS cost in CY 2007 was approximately \$380 M. Currently, DOC is required to finance services for children placed in secure detention facilities.

*Penalty Provision:* A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

**Explanation of State Revenues:** *Increases in Child Support Collections:* The bill allows judges to hold delinquent child support obligors in contempt of court (also called "bench warrants"). The Child Support Bureau reports that this is a current practice of the court that is very effective at collecting child support. This provision may help to increase child support collections to the extent judges utilize this procedure more often. Increases in child support collections will also increase revenue the state receives from the federal IV-D program. The actual impact on federal revenue is not known.

*Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

**Explanation of Local Expenditures:** The following provisions of the bill may increase local expenditures:

(1) The bill allows judges to hold delinquent child support obligors in contempt of court. The Child Support Bureau reports that this codifies a current practice utilized by judges. However, local expenditures to detain delinquent obligors may increase to the extent judges utilize bench warrants more often as a result of the bill.

(2) The bill makes assault of a DCS employee a Class D felony and may increase jail operation expenditures

if individuals are held in county jails prior to their court hearings.

The following provisions of the bill may increase workload on local government:

(1) The bill requires probation officers employed by juvenile courts to create case plans when a child's disposition decree is modified. Currently, a probation officer is required to create a case plan for a child before 60 days after either (1) the date of a child's placement in an out-of-home residence or facility (that is not a secure detention facility) or (2) the date of the dispositional decree.

(2) This bill may require courts, law enforcement, and court clerks to process additional escrow payments to the extent codifying the existing practice of issuing bench warrants for delinquent child support obligors increases bench warrant utilization by judges.

(3) The bill also places responsibility on the courts to perform checks of individuals who are to be appointed as either a guardian or a custodian of a child.

The bill also removes the requirement that the local court clerk keep lists of licensed child placing agencies that perform home studies, which can decrease local workload. However, decreases are expected to be minimal.

*Supplemental Educational Services:* The bill adds that a local school corporation has the option to provide either tutoring or supplemental educational services to enrolled children who are in foster care or are homeless if the student presents a demonstrated need for such services. Schools are currently required to provide tutoring services to qualifying students. The addition of the option to provide supplemental educational services may decrease local expenditures if schools utilize currently existing or less expensive supplemental educational services programs in lieu of tutoring. Actual impact to local school corporations will depend on the decisions of school administrators and the educational programming that is currently in place at a particular school.

*Background Information:* DOC reports that in 2004 there were 4,021 juveniles served in community corrections programs. Currently, there are 73 counties participating in the community corrections program for juveniles.

Often, the children referred to in this bill are placed in detention alternatives like home detention or community correctional facilities. Juveniles in community correction programs are nonviolent, youthful offenders who have been adjudicated for delinquent offenses that if committed by an adult would be considered a felony.

**Explanation of Local Revenues:** *GAL/CASA:* The Division of State Court Administration currently provides state matching funds to counties that have appropriate GAL/CASA services. If this bill changes the number of CHINS in a county, local revenue for the GAL/CASA program may change as well. Actual changes in local revenue are indeterminable, but expected to be small.

*Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

**State Agencies Affected:** DCS; DMHA; DDRS; Juvenile court system; Division of State Court Administration; GAL/CASA Program; DOC; Bureau of Child Support; Indiana University; Division of

Family Resources; Department of Education; Indiana State Department of Health.

**Local Agencies Affected:** County GAL/CASA programs, local courts, local law enforcement agencies, school corporations.

**Information Sources:** Jim Diller, Division of State Court Administration; Ann Houseworth, DCS; Leslie Dunn, Division of State Court Administration; Loretta Oleksy, Division of State Court Administration; Cynthia Longest, Child Support Bureau; Ellen Holland, DCS.

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